

REMARKS

This communication is a full and timely response to the final rejection dated April 30, 2008. By this communication, claims 1 and 11 are amended. Claims 1-23 remain pending. Reconsideration and allowance of this application are respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1-23 stand rejected under 35 U.S.C. §102(b) as anticipated by *Kozaki* (U.S. Patent Pub. No. 2002/00536760). Applicants respectfully traverse this rejection.

Each of Applicants' claims 1 and 11 recite, among other features, an upper electrode formed on a protective layer to contact an upper surface of a ridge through a contact hole, wherein the upper surface of the ridge is planar such that the upper electrode is in direct contact with each of the contact hole, buried layer, and protective layer.

Kozaki fails to anticipate applicants' claims because it does not disclose or suggest every element or combination of elements recited therein. On page 2 of the Office Action, the PTO contends that *Kozaki* illustrates the upper electrode is in contact with the buried layer through its contact or relationship with the lower electrode and buried layer. This argument is an effective acknowledgement that the upper electrode does not directly contact the buried layer. The structural configuration of *Kozaki* shown in Fig. 1 illustrates that the upper electrode indirectly contacts the buried layer through the lower electrode. As a result, *Kozaki* does not establish a *prima facie* case of anticipation with respect to Applicants' claimed embodiments.

The Examiner is reminded that to properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. See Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Based on at least the foregoing reasons, Applicants respectfully request that the rejection to claims 1 and 11 and their corresponding dependent claims be withdrawn.

Conclusion

Based on at least the foregoing amendments and remarks, Applicants submit that claims 1-23 are allowable, and this application is in condition for allowance. Accordingly, Applicants request favorable examination and consideration of all pending claims. In the event the instant application can be placed in even better form, Applicants request that the undersigned attorney be contacted at the number below.

Respectfully submitted,

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